

**Zoning**  
**CITY OF AUSTIN**  
**RECOMMENDATION FOR COUNCIL ACTION**



**AGENDA ITEM NO.: Z-1**  
**AGENDA DATE: Thu 04/14/2005**  
**PAGE: 1 of 1**

**SUBJECT:** C14-04-0202 - 102 Herrera - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 102 Herrera Street (Colorado River Watershed) from family residence (SF-3) district zoning to community commercial (GR) district zoning. Zoning and Platting Commission Recommendation: To grant community commercial-conditional overlay (GR-CO) combining district zoning, with conditions. Owner and Applicant: Wayne E. Brown. City Staff: Wendy Walsh, 974-7719

**REQUESTING**      Neighborhood Planning  
**DEPARTMENT:**      and Zoning

**DIRECTOR'S**  
**AUTHORIZATION:** Greg Guernsey

## **ZONING CHANGE REVIEW SHEET**

**CASE:** C14-04-0202

**Z.P.C. DATE:** February 15, 2005

**ADDRESS:** 102 Herrera Street

**OWNER & APPLICANT:** Wayne E. Brown

**ZONING FROM:** SF-3

**TO:** GR

**AREA:** 0.155 acres (6,751.8 square feet)

### **SUMMARY STAFF RECOMMENDATION:**

The staff's alternate recommendation is to grant neighborhood office – conditional overlay (NO-CO) combining district zoning. The Conditional Overlay limits development of the property to 300 motor vehicle trips per day.

### **ZONING & PLATTING COMMISSION RECOMMENDATION:**

February 15, 2005: *APPROVED GR-CO DISTRICT ZONING WITH THE CONDITIONAL OVERLAY FOR A 300 VEHICLE TRIP LIMIT AND PROHIBITING DRIVE-THROUGH SERVICES. IF THE AUTO REPAIR USE CEASES, ROLLBACK ZONING TO LR.*

*[J.MARTINEZ – 1<sup>ST</sup>; M.WHALEY-HAWTHORNE – 2<sup>ND</sup>] (8-0) K.JACKSON – ABSENT*

### **ISSUES:**

The applicant agrees with the recommendation of the Zoning and Platting Commission.

### **DEPARTMENT COMMENTS:**

The property is developed with an auto repair business, is zoned family residence (SF-3) district and takes access to Herrera Street. There is undeveloped property to the north as well as two single family residences on the opposite side of Herrera Street, which terminates just south of the subject property and does not connect to U.S. Highway 183. The primary access to Herrera Street is by Hergotz Lane, a collector street that consists of single family residences and a manufactured home park in the vicinity of the subject property. Hergotz Lane extends between U.S. Highway 183 to the south and Thompson Lane to the east. Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

According to the applicant, the property has been used for commercial purposes since it was built in 1962, the year that Monterrey subdivision was recorded. Annexation of the property occurred in 1969, so this is very likely a non-conforming use. Over the years the property has been used as a welding shop, a mechanical shop and since 1982, has been occupied with an auto repair business. The applicant repairs vehicles, including S.W.A.T. vehicles that require refurbishment or renovation prior to re-use. The applicant proposes to rezone the property to the community commercial (GR) district in order to enclose an existing concrete pad on the north side of the property and provide cover for a repair area.

Staff is unable to recommend the applicant's request to GR zoning given that the property accesses a local street, and the character of Herrera Street and Hergotz Lane in proximity to the subject property is residential. Staff offers an alternate recommendation of neighborhood office – conditional overlay (NO-CO) district zoning which would allow for re-use of the building, and also provide greater

compatibility with the surrounding residential character. The Conditional Overlay limits the number of daily vehicle trips to 300, which corresponds with the maximum number of trips that will maintain a desirable operating level on a local street.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	SF-3	Auto repair business
<i>North</i>	SF-3; LI	Undeveloped property on Hergotz Lane; Town Lake / Colorado River; Concrete plant
<i>South</i>	SF-3	Single family residences
<i>East</i>	SF-3	Single family residences; Manufactured home park; Undeveloped property on Hergotz Lane
<i>West</i>	N/A	U.S. Highway 183 right-of-way and main lanes

**AREA STUDY:** N / A

**TIA:** Is not required

**WATERSHED:** Colorado River

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** No

**SCENIC ROADWAY:** No

**NEIGHBORHOOD ORGANIZATIONS:**

511 – Austin Neighborhoods Council

634 – Montopolis Area Neighborhood Alliance

972 – PODER – People Organized in Defense of Earth & Her Resources

**SCHOOLS:**

This property is located within the Del Valle Independent School District.

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-04-0175	I-SF-2; RR; CS to CS	To Grant CS-CO, with the CO for 2,000 trips.	Approved CS-CO as recommended by ZAP Commission (12-16-04).

**RELATED CASES:**

The rezoning area was annexed in 1969.

The rezoning area is a portion of Lot 9, Block A of Monterrey subdivision, as shown in Exhibit B (C8-1946-1737). The remainder of the lot was acquired for the expansion of the U.S. 183 right-of-way.

**ABUTTING STREETS:**

<b>Name</b>	<b>ROW</b>	<b>Pavement</b>	<b>Classification</b>	<b>Sidewalks</b>	<b>Bus Route</b>	<b>Bike Route</b>
Herrera Street	50 feet	30 feet	Local	No	No	No

**CITY COUNCIL DATE:** March 24, 2005

**ACTION:**

**ORDINANCE READINGS:** 1<sup>st</sup>

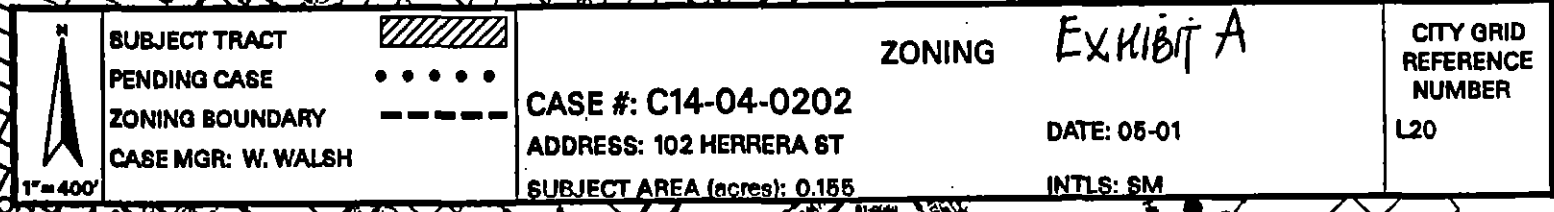
2<sup>nd</sup>

3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Wendy Walsh  
e-mail: wendy.walsh@ci.austin.tx.us

**PHONE:** 974-7719



TOWN LAKE /  
CADDEN RIVER

U.S. HIGHWAY 183

HERKOW LAKE

HERKOW LAKE

SF-3

CONCRETE

CONCRETE

# MONTERRAY

COL 000400 DIV 2P

REZONING-  
AREA

**Curve with**

Year	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100
1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	

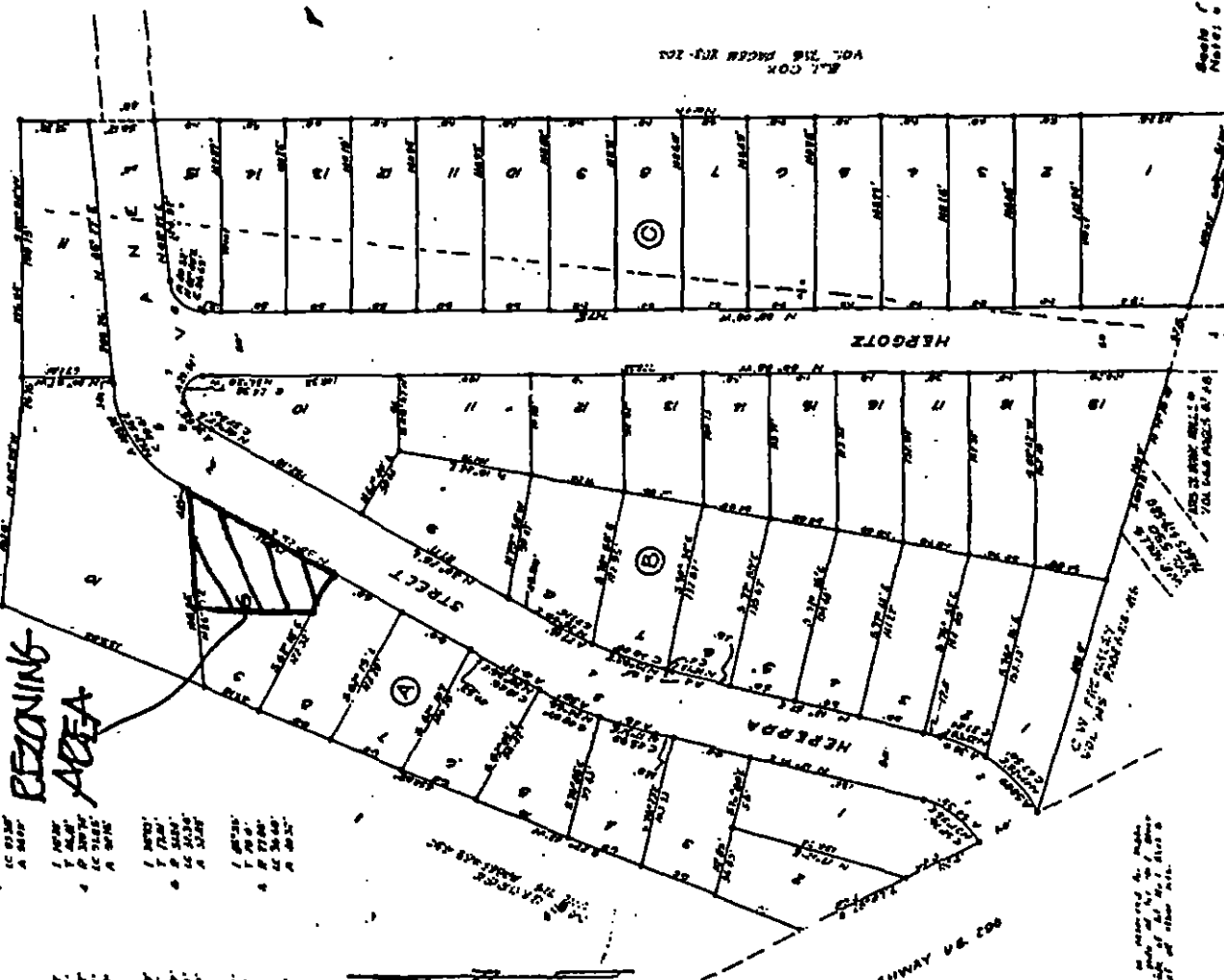


EXHIBIT  
RECORDED  
PLAT.

5. The Government of the United States of America, by and through the Secretary of State, hereby certifies that the foregoing is a true and correct copy of the original as the same appears in the files of the Department of State.

Boats 70-80  
Notes: 6. Iron Black  
--9-- - - - - -  
Thompson 100

1-11-60  
J. J. WILLIAMS  
J. J. WILLIAMS  
J. J. WILLIAMS

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the situation.

[illegible]

STATE OF TEXAS

**COUNTY OF TRANS**  
 I, the undersigned, do hereby certify that the above and foregoing is a true and correct copy of the original as the same appears in the records of the County of Trans, and that the same is a true and correct copy of the original as the same appears in the records of the County of Trans.

WITNESS, MY HAND AND SEAL OF OFFICE

10-11-12-13-14-15-16-17-18-19-20-21-22-23-24-25-26-27-28-29-30-31-32-33-34-35-36-37-38-39-40-41-42-43-44-45-46-47-48-49-50-51-52-53-54-55-56-57-58-59-60-61-62-63-64-65-66-67-68-69-70-71-72-73-74-75-76-77-78-79-80-81-82-83-84-85-86-87-88-89-90-91-92-93-94-95-96-97-98-99-100-101-102-103-104-105-106-107-108-109-110-111-112-113-114-115-116-117-118-119-120-121-122-123-124-125-126-127-128-129-130-131-132-133-134-135-136-137-138-139-140-141-142-143-144-145-146-147-148-149-150-151-152-153-154-155-156-157-158-159-160-161-162-163-164-165-166-167-168-169-170-171-172-173-174-175-176-177-178-179-180-181-182-183-184-185-186-187-188-189-190-191-192-193-194-195-196-197-198-199-200-201-202-203-204-205-206-207-208-209-210-211-212-213-214-215-216-217-218-219-220-221-222-223-224-225-226-227-228-229-230-231-232-233-234-235-236-237-238-239-240-241-242-243-244-245-246-247-248-249-250-251-252-253-254-255-256-257-258-259-260-261-262-263-264-265-266-267-268-269-270-271-272-273-274-275-276-277-278-279-280-281-282-283-284-285-286-287-288-289-290-291-292-293-294-295-296-297-298-299-300-301-302-303-304-305-306-307-308-309-310-311-312-313-314-315-316-317-318-319-320-321-322-323-324-325-326-327-328-329-330-331-332-333-334-335-336-337-338-339-340-341-342-343-344-345-346-347-348-349-350-351-352-353-354-355-356-357-358-359-360-361-362-363-364-365-366-367-368-369-370-371-372-373-374-375-376-377-378-379-380-381-382-383-384-385-386-387-388-389-390-391-392-393-394-395-396-397-398-399-400-401-402-403-404-405-406-407-408-409-410-411-412-413-414-415-416-417-418-419-420-421-422-423-424-425-426-427-428-429-430-431-432-433-434-435-436-437-438-439-440-441-442-443-444-445-446-447-448-449-450-451-452-453-454-455-456-457-458-459-460-461-462-463-464-465-466-467-468-469-470-471-472-473-474-475-476-477-478-479-480-481-482-483-484-485-486-487-488-489-490-491-492-493-494-495-496-497-498-499-500-501-502-503-504-505-506-507-508-509-510-511-512-513-514-515-516-517-518-519-520-521-522-523-524-525-526-527-528-529-530-531-532-533-534-535-536-537-538-539-540-541-542-543-544-545-546-547-548-549-550-551-552-553-554-555-556-557-558-559-560-561-562-563-564-565-566-567-568-569-570-571-572-573-574-575-576-577-578-579-580-581-582-583-584-585-586-587-588-589-590-591-592-593-594-595-596-597-598-599-600-601-602-603-604-605-606-607-608-609-610-611-612-613-614-615-616-617-618-619-620-621-622-623-624-625-626-627-628-629-630-631-632-633-634-635-636-637-638-639-640-641-642-643-644-645-646-647-648-649-650-651-652-653-654-655-656-657-658-659-660-661-662-663-664-665-666-667-668-669-670-671-672-673-674-675-676-677-678-679-680-681-682-683-684-685-686-687-688-689-690-691-692-693-694-695-696-697-698-699-700-701-702-703-704-705-706-707-708-709-710-711-712-713-714-715-716-717-718-719-720-721-722-723-724-725-726-727-728-729-730-731-732-733-734-735-736-737-738-739-740-741-742-743-744-745-746-747-748-749-750-751-752-753-754-755-756-757-758-759-760-761-762-763-764-765-766-767-768-769-770-771-772-773-774-775-776-777-778-779-780-781-782-783-784-785-786-787-788-789-790-791-792-793-794-795-796-797-798-799-800-801-802-803-804-805-806-807-808-809-810-811-812-813-814-815-816-817-818-819-820-821-822-823-824-825-826-827-828-829-830-831-832-833-834-835-836-837-838-839-840-841-842-843-844-845-846-847-848-849-850-851-852-853-854-855-856-857-858-859-860-861-862-863-864-865-866-867-868-869-870-871-872-873-874-875-876-877-878-879-880-881-882-883-884-885-886-887-888-889-890-891-892-893-894-895-896-897-898-899-900-901-902-903-904-905-906-907-908-909-910-911-912-913-914-915-916-917-918-919-920-921-922-923-924-925-926-927-928-929-930-931-932-933-934-935-936-937-938-939-940-941-942-943-944-945-946-947-948-949-950-951-952-953-954-955-956-957-958-959-960-961-962-963-964-965-966-967-968-969-970-971-972-973-974-975-976-977-978-979-980-981-982-983-984-985-986-987-988-989-990-991-992-993-994-995-996-997-998-999-1000-1001-1002-1003-1004-1005-1006-1007-1008-1009-1010-1011-1012-1013-1014-1015-1016-1017-1018-1019-1020-1021-1022-1023-1024-1025-1026-1027-1028-1029-1030-1031-1032-1033-1034-1035-1036-1037-1038-1039-1040-1041-1042-1043-1044

(7635)

*F. E. [Signature]*

THE STATE OF TEXAS

[illegible]

8413

THE STATE OF TEXAS  
COUNTY OF TRAVIS KNOW ALL MEN BY THESE PRESENTS  
that we, the undersigned, being of legal age and of sound  
mind, do hereby certify that the within and foregoing  
instrument is the true and correct copy of the original  
instrument as the same appears from the records of the  
County of Travis, State of Texas, and that we are  
giving under my name and seal of office  
this 5th day of March, 1904.

Young Eugene Langford  
Heavy & light at last at Fort Chissey, Texas

**APPROVED FOR ACCEPTANCE**

Date: 3/1/46

APPROVED BY CITY PLAN COMMISSION

Date: 3-11-46

Doc. 3-12-46

FILED FOR RECORD  
on 11.20 instant at 16 day of December 1946

by: Emilie Lomberg  
Alice Emilie Lomberg

**THE STATE OF TEXAS**

COUNTY OF TRANS  
I, Miss Emily Lebecky, Clerk of the County Court within and for the county and State aforesaid, do hereby certify that the foregoing instrument of writing with the Certificate of Authentication of the County Clerk of said county, and the Seal of said County, and my signature on the day of January, 1888 at Little Rock, Arkansas, and my receipt on the 14 day of February, 1888 at Little Rock, Arkansas, in the said County in the presence of the undersigned witnesses, was duly filed for record of said County the said Seal and written above. (S.E.C.)

Ernie Lombard  
 Atty Gen's Office  
 2nd County Court, Pinal County, Arizona  
 By: Edward Cruise  
 Deputy

Drawn by T. A. Warden February 1908  
T. A. Warden  
Registered Professional Engineer (S.E.A.)

**SUMMARY STAFF RECOMMENDATION:**

The staff's recommendation is to grant neighborhood office – conditional overlay (NO-CO) combining district zoning. The Conditional Overlay limits development of the property to 300 motor vehicle trips per day.

**BACKGROUND**

The property is developed with an auto repair business, is zoned family residence (SF-3) district and takes access to Herrera Street. There is undeveloped property to the north as well as two single family residences on the opposite side of Herrera Street, which terminates just south of the subject property and does not connect to U.S. Highway 183. The primary access to Herrera Street is by Hergotz Lane, a collector street that consists of single family residences and a manufactured home park in the vicinity of the subject property. Hergotz Lane extends between U.S. Highway 183 to the south and Thompson Lane to the east.

According to the applicant, the property has been used for commercial purposes since it was built in 1962, the year that Monterrey subdivision was recorded. Annexation of the property occurred in 1969, so this is very likely a non-conforming use. Over the years the property has been used as a welding shop, a mechanical shop and since 1982, has been occupied with an auto repair business. The applicant repairs vehicles, including S.W.A.T. vehicles that require refurbishment or renovation prior to re-use. The applicant proposes to rezone the property to the community commercial (GR) district in order to enclose an existing concrete pad on the north side of the property and provide cover for a repair area.

Staff is unable to recommend the applicant's request to GR zoning given that the property accesses a local street, and the character of Herrera Street and Hergotz Lane in proximity to the subject property is residential. Staff offers an alternate recommendation of neighborhood office – conditional overlay (NO-CO) district zoning which would allow for re-use of the building, and also provide greater compatibility with the surrounding residential character. The Conditional Overlay limits the number of daily vehicle trips to 300, which corresponds with the maximum number of trips that will maintain a desirable operating level on a local street.

**BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)**

*1. The proposed zoning should be consistent with the purpose statement of the district sought.*

The SF-3, Family Residence, zoning district is intended as an area for moderate density single family residential use, with a minimum lot size of 5,750 square feet. This district is appropriate for existing single-family neighborhoods having typically moderate sized lot patterns, as well as for development of additional family housing areas with minimum land requirements.

The NO, Neighborhood Office, district is intended for small office use and also allows for child care facilities that serves neighborhood or commercial needs, is located in or adjacent to a residential neighborhood and on a collector street that has a width of 40 feet or more, and does not unreasonably affect traffic. An office in an NO district may not contain more than one use. Site development regulations applicable to an NO district use are designed to preserve compatibility with existing neighborhoods through renovation and modernization of existing structures.

The proposed GR, Community Commercial district is intended for office and commercial uses serving neighborhood and community needs, including both unified shopping centers and individually developed commercial sites, and typically requiring locations accessible from major trafficways.

**2. Zoning changes should promote an orderly and compatible relationship among land uses.**

Staff is unable to recommend the applicant's request to GR zoning given that the property accesses a local street, and the character of Herrera Street and Hergotz Lane in proximity to the subject property is residential. Staff offers an alternate recommendation of neighborhood office – conditional overlay (NO-CO) district zoning which would allow for re-use of the building, and also provide greater compatibility with the surrounding residential character. The Conditional Overlay limits the number of daily vehicle trips to 300, which corresponds with the maximum number of trips that will maintain a desirable operating level on a local street.

## **EXISTING CONDITIONS**

### **Site Characteristics**

There is an existing auto repair business on the property. The site is relatively flat and there appear to be no significant topographical constraints on the site.

### **Impervious Cover**

The maximum impervious cover allowed by the SF-3 zoning district would be 45%, which is based on the more restrictive watershed regulations. The maximum impervious cover allowed by the NO-CO zoning district as proposed by the staff would be 55%, as determined by the more restrictive zoning regulations. The maximum impervious cover allowed by the GR district would be 80% which is a consistent figure between the zoning and watershed regulations.

### **Environmental**

The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Colorado River Watershed, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

In the Water Quality Transition Zones, impervious cover is limited to 30%.

According to flood plain maps, there is flood plain in, or within close proximity of, the project location. Based upon the close proximity of flood plain, offsite drainage should be calculated to determine whether transition zone exists within the project location. If transition zone is found to exist within the project area, allowable impervious cover within said zone shall be limited to 30%.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

At this time, site specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

### **TPSD Right-of-Way**

The scope of this review is limited to the identification of needs for dedication and/or reservation of right-of-way for funded Capital Improvement Program (C.I.P.) Roadway Construction Projects and Transportation Systems Management (T.S.M.) Projects planned for implementation by the City of Austin. No aspect of the proposed project is being considered or approved with this review other than the need for right-of-way for City projects. There are separate right-of-way dedication and reservation requirements enforced by other Departments and other jurisdictions to secure right-of-way for roadway improvements contained in the Austin Metropolitan Area Roadway Plan, roadway projects funded by County and State agencies, and for dedication in accordance with the functional classification of the roadway.

We have reviewed the proposed rezoning case and anticipate no additional requirement for right-of-way dedication or reservation for funded C.I.P. or T.S.M. projects at this location.

### **Transportation**

No additional right-of-way is needed at this time.

The trip generation under the requested zoning is estimated to be 1,848 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics). The proposed automotive service use generates approximately 128 trips per day.

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 300 vehicle trips per day. [LDC, 25-6-117]

### **Water and Wastewater**

The landowner intends to serve the site with City water and wastewater utilities. The landowner, at own expense, will be responsible for providing the water and wastewater utility improvements, offsite main extension, system upgrades, utility relocation, and utility adjustment to serve the site and land use. The water and wastewater utility system serving this site must be in accordance with the City utility design criteria and specifications. The water and wastewater utility plan must be reviewed and

approved by the Austin Water Utility. The utility construction must be inspected by the City. The landowner must pay the associated City fees.

The landowner must pay the tap and impact fee once the landowner makes an application for a City water and wastewater utility tap permit.

### **Compatibility Standards**

This property is within the Controlled Compatible Land Use Area defined by Chapter 241 of the Local Government Code. Development on this property is limited by Chapter 25-13 of the Austin City Code. Airport hazards as defined in Federal Aviation Regulations Part 77, as adopted by the City in Sections 25-13-23, are prohibited. For more information, contact Shane M. Harbinson, Noise Abatement Officer at (512) 530-6652.

This site is subject to the Hazardous Pipeline Ordinance and is shown as "Inactive Refined Products" on a 2002 City map. Review by the Fire Department is required. LDC, 25-2-516.

Site plans will be required for any new development other than single-family or duplex residential.

The site is subject to compatibility standards. Along the north and east property line, the following standards apply:

- No structure may be built within 25 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- No parking or driveways are allowed within 25 feet of the property line.

Additional design regulations will be enforced at the time a site plan is submitted.

- For a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive.
- An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining SF-3 property.
- A landscape area at least 15 feet in width is required along the property line if tract is zoned MF-3, MF-4, MF-5, MH, NO, or LO.
- A landscape area at least 25 feet in width is required along the property line if the tract is zoned LR, GO, GR, L, CS, CS-1, or CH.
- In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

[www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-04-0202

Contact: Wendy Walsh, (512) 974-7719

Public Hearing:

February 15, 2005 Zoning and Platting Commission

Wayne Wolf

Your Name (please print)

101 Herzog Ln

Your address(es) affected by this application

Wayne Wolf

Signature

2-12-05

Date

Comments:

I am in favor of the  
entire area around the 183  
expansion being up graded  
to multi-use or commercial  
commercial district zoning.

If you use this form to comment, it may be returned to:

City of Austin

Neighborhood Planning and Zoning Department

Wendy Walsh

P. O. Box 1088

Austin, TX 78767-8810

☒ I am in favor  
☐ I object

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE  
2 PROPERTY LOCATED AT 102 HERRERA STREET FROM FAMILY  
3 RESIDENCE (SF-3) DISTRICT TO COMMUNITY COMMERCIAL-  
4 CONDITIONAL OVERLAY (GR-CO) COMBINING DISTRICT.

5  
6 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

7  
8 PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to  
9 change the base district from family residence (SF-3) district to community commercial-  
10 conditional overlay (GR-CO) combining district on the property described in Zoning Case  
11 No. C14-04-0202, on file at the Neighborhood Planning and Zoning Department, as  
12 follows:

13  
14 A 0.155 acre tract of land (6,783 square feet), more or less, out of Lot 9, Block A,  
15 Monterrey Subdivision, in Travis County, the tract of land being more particularly  
16 described by metes and bounds in Exhibit "A" incorporated into this ordinance,  
17 (the "Property")

18  
19 locally known as 102 Herrera Street, in the City of Austin, Travis County, Texas, and  
20 generally identified in the map attached as Exhibit "B".

21  
22 PART 2. The Property within the boundaries of the conditional overlay combining district  
23 established by this ordinance is subject to the following conditions:

- 24  
25 1. Drive-in service is prohibited as an accessory use to a commercial use.  
26  
27 2. A site plan or building permit for the Property may not be approved, released, or  
28 issued, if the completed development or uses of the Property, considered cumulatively  
29 with all existing or previously authorized development and uses, generate traffic that  
30 exceeds 300 trips per day.

31  
32 Except as specifically restricted under this ordinance, the Property may be developed and  
33 used in accordance with the regulations established for the community commercial (GR)  
34 base district and other applicable requirements of the City Code.  
35  
36  
37

1  
2 **PART 3.** This ordinance takes effect on \_\_\_\_\_, 2005.  
3

4  
5 **PASSED AND APPROVED**  
6

7 §  
8 §  
9 §

\_\_\_\_\_, 2005

Will Wynn  
Mayor

10  
11  
12  
13  
14 **APPROVED:**

David Allan Smith  
City Attorney

**ATTEST:**

Shirley A. Brown  
City Clerk

**EXHIBIT A**  
**LEGAL DESCRIPTION**

BEING A 0.155 ACRE (6,763 SQUARE FOOT) TRACT OF LAND, BEING THE REMAINDER OF LAND OUT OF LOT 9, BLOCK A, VOLUME 4, PAGE 236, MONTERREY SUBDIVISION, PLAT RECORDS OF TRAVIS COUNTY, TEXAS, ALSO BEING THE SAME TRACT AS RECORDED IN WARRANTY DEED WITH VENDORS LIEN IN VOLUME 7718, PAGE 373, DEED RECORDS, TRAVIS COUNTY, TEXAS, SAID 0.155 ACRE TRACT IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a concrete highway monument (Type II) found at the southeast corner of said Lot 9, on the northwesterly right-of-way line of Herrera Street, a 50-foot wide right-of-way, for the southeast corner of this tract;

**THENCE**, northwesterly, with the common line between said 0.155 acre tract and the east right-of-way line of Highway 183, the following two (2) courses:

- 1) N63°02'55"W, a distance of 31.65 feet to a concrete highway monument (Type II) found, for the southwest corner of this tract;
- 2) N05°40'44"W, a distance of 90.62 feet to a calculated point, for the northwest corner of this tract;

**THENCE**, N85°27'00"E, with the common line between said Lot 9 and Lot 10, a distance of 103.70 feet to a calculated point, for the northeast corner of this tract;

**THENCE**, S30°25'00"W, a distance of 130.74 feet to the **POINT OF BEGINNING**, containing 0.155 acres of land.

**BEARING BASIS NOTE**

The bearings described herein are based on the southwesterly line of said Lot 9, having a bearing of S30°25'00"W.

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

§

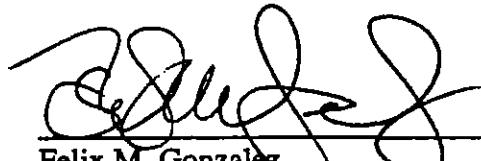
COUNTY OF WILLIAMSON

§

That I, Felix M. Gonzalez, a Registered Professional Land Surveyor, do hereby state that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground during December, 2004 under my direction and supervision.

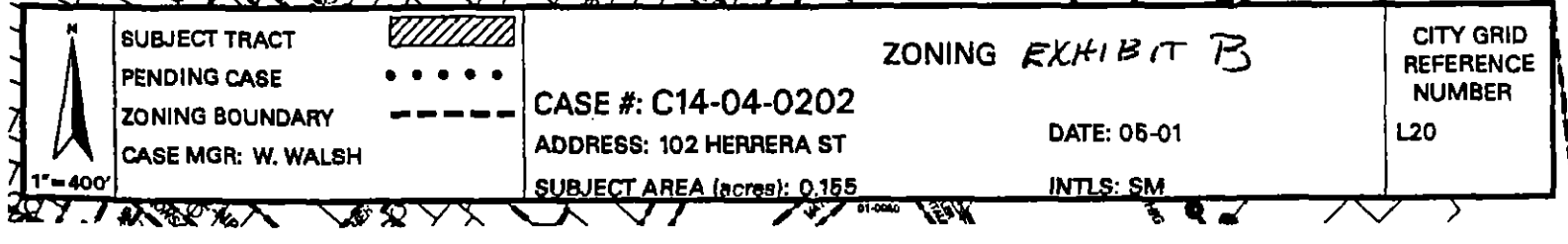
WITNESS MY HAND AND SEAL at Round Rock, Williamson County, Texas, this the 10th day of December 2004, A.D.

Big Sky Surveying  
1402 Baffin Cove  
Round Rock, Texas 78664  
512-248-1484

  
Felix M. Gonzalez  
Registered Professional Land Surveyor  
No. 5418 – State of Texas

**REFERENCES**

Deed Reference: Volume 7718, Page 373,  
Deed Records of Travis County, Texas  
TCAD No. 03-0217-0401  
BIG SKY PROJ. NO. 2004076



**RESTRICTIVE COVENANT**

**OWNER:** Wayne E. Brown

**ADDRESS:** 102 Herrera Street, Austin, Texas 78742

**CONSIDERATION:** Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

**PROPERTY:** A 0.155 acre tract of land (6,763 square feet), more or less, out of Lot 9, Block A, Monterrey Subdivision, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant.

WHEREAS, the Owner, whether one or more, of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. If use of the Property as an automotive repair use is discontinued for 90 consecutive days, the Owner of the Property will not object to the City of Austin rezoning the Property to neighborhood commercial (LR) district as defined in Chapter 25-2 of the City Code. Normal seasonal cessation of a use, or temporary discontinuance for purposes of maintenance or rebuilding of the Property after damage or destruction may not be used in calculating of the period of discontinuance.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 4 day of March, 2005.

OWNER:

Wayne E. Brown  
Wayne E. Brown

APPROVED AS TO FORM:

Assistant City Attorney  
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 4<sup>th</sup> day of March, 2005, by Wayne E. Brown.

Carla M. Duan  
Notary Public, State of Texas

After Recording, Please Return to:  
City of Austin  
Department of Law  
P. O. Box 1088  
Austin, Texas 78767-1088  
Attention: Diana Minter, Legal Assistant

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*Exhibit A*

**THE STATE OF TEXAS**  
**COUNTY OF WILLIAMSON**

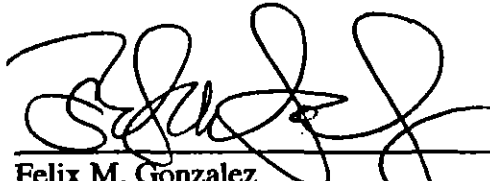
§  
§  
§

**KNOW ALL MEN BY THESE PRESENTS:**

That I, Felix M. Gonzalez, a Registered Professional Land Surveyor, do hereby state that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground during December, 2004 under my direction and supervision.

WITNESS MY HAND AND SEAL at Round Rock, Williamson County, Texas, this the 10th day of December 2004, A.D.

Big Sky Surveying  
1402 Baffin Cove  
Round Rock, Texas 78664  
512-248-1484

  
Felix M. Gonzalez  
Registered Professional Land Surveyor  
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